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had three or four plus Wassermann reactions; 15 per cent of these young girls had active infectious syphilitic manifestations, such as chancre, mucous patch, or condylomata lata.

The age period from 18 to 22 gave 388 prostitutes, or about 48 per cent of the total studied. Of these 388, 193, or about 50 per cent, were strongly Wassermann positive, and 11 per cent had active genital lesions of syphilis.

One hundred and forty-seven girls were in the next age group, 23-27, of whom 45 per cent were serologically positive, and 11 per cent had dangerous syphilitic manifestations.

Only 64 women were in the age group of 28-32, and 43 per cent of these had three or four plus Wassermann reactions, but only four per cent were with active lesions.

Beyond 32 the number of women became much smaller, and the percentage of positive Wassermann reactions became much lower, while none showed any infectious manifestations.

In the series studies there were 422 whites, 304 mulattoes, and 65 negresses. Even with this disparity of numbers, the percentage of Wassermann positive cases was constant, about 47 per cent for each color. The ratio of active syphilitic cases, however, showed a marked difference. The whites gave 10 per cent, the mulatto 13 per cent, and the negress only 3 per cent with infectious syphilitic manifestations.

COURTS—LAWS

The Public Defender.—Society owes a duty to the "under dog." Its obligation is becoming more apparent in the various phases of human endeavor. In the wake of the great world crisis through which we have been passing, class and financial distinctions are disappearing. The masses of the people everywhere are clamoring for social and economic justice. One of the signs of unrest is the rapidly growing movement for a "square deal" in the courts. In this connection, the establishment of the office of public defender is being persistently urged. Throughout the United States and England, the demand for elemental justice is developing with an ever-increasing force. The public defense of indigents accused of crime is a necessary counterpart of public prosecution. A duty devolves upon the state to shield the innocent as well as to punish the guilty. Does the state at present discharge this obligation? Does it protect the weak as well as the strong? Are the scales of justice evenly balanced? If we answer these questions in the negative—and we must—the need for a change is readily seen.

If our so-called "presumption of innocence" and "equality before the law" are to be effective, the state must defend as well as prosecute accused persons, particularly those who are unable to protect themselves. Society as a whole does not presume the accused innocent—it presumes him guilty. All classes of accused persons, whether rich or poor, must be given equal opportunities, equal resources and equal rights. The ascertainment of the truth is the primary consideration in the trial of a case. Any plan which tends towards that result merits the serious thought of our citizens. The trial of an issue involving human life or liberty must cease to be an unequal contest between the powerful state on the one hand and a weak and helpless defendant on the other. A "battle of wits" between opposing counsel for partisan advantage is not the true conception of a criminal trial.

The district attorney is said to be a quasi-judicial officer. His main function, however, is to *prosecute* and not to defend. It is impossible for him adequately to perform a double function—even though he conscientiously attempted to do so. If he could adequately protect the rights of the accused, there would be no necessity for the latter to have other counsel. The popular impression that many defendants are *persecuted* rather than prosecuted is not without merit. There are fair-minded prosecutors with a keen sense of justice. Unfortunately, too many are dominated by the desire to "make a record." It is well known that district attorneys are prone to boast of the number of convictions obtained by them, rather than to glory in the fact that they found innocent men and set them free. To them, accusation is often equivalent to proof. The average prosecutor scents guilt—not innocence. The superior advantage which he has over defendant's counsel cannot be denied. The great force of the state is behind him. He is all-powerful, awe-inspiriting, resourceful and relentless. The law reports abound with decisions in which appellate courts have reversed convictions and granted new trials on account of the improprieties, prejudice or misconduct of district attorneys. Judges, too have frequently been scored for their unfair conduct of criminal trials.

The office of public defender will substitute competent, experienced, powerful and high-class official counsel in the place of indifferent, uncompensated and ofttimes conscienceless "assigned counsel." There is ample distinguished authority for the statement that the present system of "assigned counsel" is inadequate. A defendant possessing financial means may select his own counsel and vigorously combat the powerful agencies of the prosecution. The indigent defendant has no freedom of selection but is compelled to take such counsel as the court assigns to him. Counsel must accept the assignment and, except in capital cases, without remuneration. Our whole system of assigned counsel is fundamentally wrong from every standpoint. It is as unfair to counsel as it is to the accused. If it is logical for the state to pay counsel for the defense of one whose life is at stake, why is it not equally logical to compensate counsel in a case where one's liberty is involved? Accused persons are entitled to a real defense—not a perfunctory one. In order to vitalize the "presumption of innocence," the state must accord the defendant a fair trial. Even the "crook" is entitled to that—despite a criminal record.

Miscarriages of justice are bound to occur through indifferent or incompetent service rendered by assigned counsel. Although some lawyers appointed to defend indigents are experienced and conscientious, many of them do not reflect any credit upon their profession. Successful lawyers find civil practice more alluring and profitable. Is the average pauper prisoner really defended? It is constantly asserted that defendants are often induced to plead guilty by counsel who desire to escape the burden and responsibility of a trial or that they are lukewarm in their defense. Should not this condition be speedily remedied?

It is not the function of a public defender to defeat justice by securing the acquittal of a guilty defendant any more than it is the function of the district attorney to convict an innocent man. It should be the duty of both officials to work harmoniously, with the sole purpose of bringing out the facts

and the law in a given case, and to strive for the highest ideals in the administration of justice. The public defender would afford the innocent a real defense, would secure for him a speedier trial and would stand as his champion—armed with sufficient resources and power to protect his rights. He would also properly advise the guilty and be instrumental in saving him from over-punishment.

The public defender proposal is fundamentally sound from a humane, practical and economic standpoint. It is not novel, radical nor revolutionary. It is sanctioned by historical precedent in European countries and present day efficiency in many American communities, notably in Los Angeles, Omaha, Pittsburgh, New Haven, Bridgeport and Hartford. The working out of the plan in other cities is now being watched with great interest.

An experiment is now being tried out in New York County by private individuals, philanthropically inclined, to remedy conditions in the criminal courts by furnishing high class counsel to indigent defendants. This plan will not solve the problem. It is at best a temporary expedient—a makeshift. Private charity will not avail as a substitute for justice. Justice—not charity—is the universal need.

The case of Charles F. Stielow, convicted of murder and recently pardoned by the Governor of New York, is a striking instance of the need for a public defender. This case with its many ramifications, extraordinary revelations, confessions made and repudiated, motions for new trials, stays of execution and appeals to the governor, presents a startling illustration of legal "red tape" and technicalities. Stielow was helpless against the juggernaut of prosecution. His long imprisonment and torture seriously challenges the efficiency of the administration of justice. The "Stielow case" has completely shattered the argument so persistently urged by opponents of the public defender that our present system precludes the possibility of wrongful convictions. It proved conclusively that an innocent man can be sentenced to death, despite the so-called legal "safeguards" which apparently surround him. His ultimate vindication and freedom, through executive clemency, saved the state from the stain of judicial murder.

Unfortunately, the law makes no provision by which those whom it wrongs, like Stielow, may be compensated. Not only should the state jealously guard the fundamental rights of accused persons, but it should go further and indemnify those who are the victims of legal injustice.

The successful conduct of the office in Los Angeles and other American cities is a complete answer to the objections which have been urged. The favorable comment of judges, lawyers and those in touch with the criminal courts in those communities, is significant. The trend of public opinion is indicated by the efforts of legislators throughout the country to create the office of public defender. Nothing can stop the onward sweep of the movement. Not only in the state courts, but in the military courts, the "square deal" idea is fast taking root. The recent published criticisms of trials by army courts-martial and the helplessness of accused soldiers indicate the need for a reorganization of those tribunals. Defense is a right—not a privilege. A denial of the right of impartial hearing tends to public scandal and the undermining of the principles upon which our government is founded.

The American sense of "fair play" will in time demand the adoption

generally of the public defender idea. It means greater respect for the law and increased confidence in the criminal courts. The democracy of justice is essential to the march of human progress. The public defender is a national necessity.—Mayer C. Goldman, member of the New York City Bar, author of "The Public Defender."

The Public Defender: A Constructive Social Experiment.—Social justice demands legal justice, and be it noted that social justice in the twentieth century is pushing towards its end on a more intelligent and scientific basis than formerly. It therefore seeks remedies based more on scientific inquiry and thorough experimentation and less on theory. These requirements apply with equal propriety to all effort to put the machinery of legal justice in harmony with economic justice. The provision of proper counsel for the defense in criminal cases is one of the twentieth century demands of both social and legal justice, the answer to which needs peculiarly to be settled by inquiry and experiment rather than by theory. That some better provision must be made than exists at present is generally testified by judges, district attorneys and others who observe our criminal courts in various relations, but as to the form of provision there is much variety of opinion. In Los Angeles, for instance, we have the public defender named by the county board of supervisors, and in Connecticut he is named by the judges of the Superior Court. In New York he is named by a committee of citizens. In the first two instances the office is a public one; in the last it is a private office under the direction of a citizen's committee. There is evidently no agreement yet as to the proper source of appointment and the ultimate choice between these various methods is yet to be determined.

In New York the appointment of a public defender was carefully considered by committees of the bar association and the county lawyers' association respectively. The work of the public defender was approved as desirable, but it was the almost unanimous judgment that it could best be done by private counsel employed by a citizens' committee. The Voluntary Defenders' Committee was therefore formed, including men and women who had touched the problem of the public defender in various intimate relations and it was decided to undertake the work for three years as an experiment, giving special attention to the lessons derived therefrom in relation to the continuance of the work and its future character. This attitude of open-minded inquiry has kept the movement from many mistakes. Such, for instance, would have been the passage of a bill before the New York state legislature urged by well-meaning but inexperienced advocates of the public defender. The bill created the office of public defender with a salary equal to that of the district attorney and a staff of assistants nearly, if not quite, equalling the staff of the district attorney. The three years' experience of public defender in New York has made it clear that no such office with numerous assistants is needed. During the past three years the public defender of New York has had but one assistant, and yet he has been able to handle approximately half of all the assigned felony cases, that is, half of the most serious cases which would have been assigned to the public defender if such an official position had been created. The public defender in Los Angeles County has but four assistants on the criminal side, while the staff